

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

PIERRE LAHENS,

Plaintiff,

v.

**Civil Action No. 2:16cv20
(Judge Bailey)**

UNITED STATES OF AMERICA,

Defendant,

and

**TERRY O'BRIEN, J. GILLEY,
SIX UNKNOWN NAMED OFFICERS
OF USP HAZELTON SPECIAL TASK FORCE,**

**Civil Action No. 1:16cv95
(Judge Bailey)**

Consolidated Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert [Docs. 59 (2:16-cv-20) and 17 (1:16-cv-95)]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of a proposed report and a recommendation ("R&R"). Magistrate Judge Seibert filed his R&R on September 11, 2017, wherein he recommends this Court grant the defendants' motion to dismiss the FTCA and ***Bivens*** Complaints.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the

factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. **Thomas v. Arn**, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that service was accepted on September 18, 2017 [Docs. 61 and 18]. To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

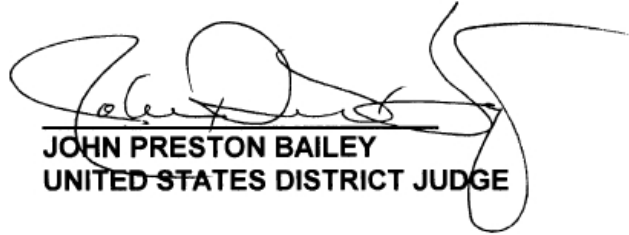
Upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Docs. 59 and 17]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. The Defendant's Motion to Dismiss or, in the Alternative, for Summary Judgment **[Doc. 45]** is **GRANTED**. Accordingly, the plaintiff's FTCA Complaint **[Doc. 1]** is hereby **DISMISSED WITH PREJUDICE**. Additionally, the plaintiff's *Bivens* action, Case No. 1:16-cv-95, consolidated with this FTCA action, is **DISMISSED WITH PREJUDICE**. Finally, the pending Motion to Amend Defendants' Names **[Doc. 49]** is **DENIED AS MOOT**. This Court further **DIRECTS** the Clerk to enter judgment in favor of the defendants and to **STRIKE** these cases from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and

to mail a copy to the *pro se* plaintiff.

DATED: October 6, 2017.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE